IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIFTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 19711 of 2003

Between:

N. Kondaiah, S/o. Ramulu,,

aged: about 42 years,

Junior Assistant,
Sri Raghavendra Junior College, Ramagiri, Nalgonda.

..... PETITIONER

AND

1. The Principal/Correspondent,

Sri Raghavendra Junior College, Ramagiri, Nalgonda.

2. The Regional Joint Director of Higher Education, Warangal.

3. The Commissioner and Director of Intermediate Education, A.P.
Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more in the nature of Mandamus declaring the action of the Principal/Correspondent, Sri Raghavendra Junior College, Nalgonda not implementing the orders of the Regional Joint Director of Intermediate Education, Warangal in Proc.Rc. No. 3351/A3/2003, dated 27-8-2003 and not permitting the petitioner to join duty as illegal, arbitrary discriminatory, unjust and violative of Articles 14,16 and 21 of the constitution and hold that the petitioner is entitled to be

treated as continued in the post of Junior Assistant with all attendent benefits including arrears of salaries.

Counsel for the Petitioner: MR.D.LINGA RAO

Counsel for the Respondent No.1: Mr. E.V. BHAGIRATHA RAO

Counsel for the Respondent Nos. 2 & 3: GP FOR HIGHER EDUCATION

The Court made the following :

ORAL ORDER:

A Junior Assistant, employed as such, on a permanent basis in the Sri Raghavendra Junior College, Ramagiri, Nalgonda (for short 'the College'), has filed the writ petition aggrieved by the conduct of the College in declining to admit him to duty despite his joining report dated 30-04-1999. The College is an aided College and the petitioner has been appointed on a regular basis in an aided post. The petitioner abstained from duties during the period 20-06-1998 to 29-04-1999. He claims to have been beset by ill-health during the period. According to the Management of the College the petitioner did not produce any medical certificate in support of his claim of ill-health, nor did he obtain prior permission or sanction of leave for the period. On 30-04-1999 the petitioner submitted his joining report to the College and sought admission to active duty. The petitioner claims that he was asked by the 1st respondent to submit to duty only after the permission of the 2nd respondent – The Regional Joint Director of Higher Education, Warangal. As instructed, petitioner approached the 2nd respondent, who thereupon, issued proceedings dated 20-05-1999 directing the 1st respondent to take necessary action against the petitioner, as per rules, if the medical certificates produced by him are suspect. However, the 2nd respondent directed the 1st respondent to take necessary steps to permit the petitioner to join duty, pending an inquiry in the matter and without prejudice to any disciplinary action that may be initiated against him. Despite the petitioner furnishing a copy of the 2nd respondent's proceedings dated 20-05-1999 along with another joining report, the 1st respondent Management declined to take him to duty. Helpless, the petitioner sent up another representation to the 2nd respondent on 26-08-2003. In response thereto, the 2nd respondent issued another proceedings dated 27-08-2003 directing the 1st respondent to permit the petitioner to join duty in the first instance, and informing the 1st respondent that if the directions of the 2nd respondent

are not adhered to, suitable action would be taken. Despite the orders of the 2nd respondent dated 27-08-2003, the 1st respondent failed to admit the petitioner to duty. This writ petition has, therefore, been instituted.

Mr. Hariharan, learned counsel for the 1st respondent contends that as the petitioner had failed to obtain prior permission before proceeding on leave and had failed to produce any medical certificate in support of the period he was absent on claims of being ill, he was not permitted to join duty. This conduct of the 1st respondent is wholly irresponsible and unlawful. Admittedly, the petitioner is a permanent employee of the College, who is working in an aided post. If the petitioner has committed any misconduct such as unauthorized absence from duty, the 1st respondent is at liberty to take appropriate disciplinary proceedings against the petitioner. Admittedly, not even an order of suspension, pending inquiry, was passed by the 1st respondent. In the circumstances, the conduct of the 1st respondent in declining to admit the petitioner to the duty was wholly without justification and was an unlawful act.

On the analysis above, the writ petition is allowed directing the 1st respondent forthwith admit the petitioner to duty and pay him all the arrears of salary, emoluments and other allowances as are due and payable to him with effect from 30-04-1999, the date on which the petitioner has submitted his joining report. The liability of the 1st respondent to pay the above amounts towards arrears of salary, emoluments and other allowances shall be regardless of whether grant-in-aid is released for this purpose by the State. The 1st respondent may however pursue the appropriate authorities for release of grant-in-aid. The liability of the 1st respondent for payment of the arrears to the petitioner is however not dependent on the release of the grant-in-aid. On being admitted to duty, the petitioner shall be entitled to all the benefits, as though he had reported to duty on 30-04-1999.

Nothing in this judgment shall be construed as an expression by this court on the petitioner's claim as to having suffered ill-health during the period of his absence, nor does this judgment debar the Management of the College to initiate any appropriate proceedings against the petitioner. In the context of the fact that the petitioner has been denied his just benefits since 30-04-1999, I consider it appropriate to allow the writ petition with costs quantified at Rs. 2,500-00 (Rupees

two thousand five hundred only) payable by the 1st respondent to the petitioner.

The writ petition is allowed as above.

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GODA RAGHURAM, J

Dt. 15-07-2004

ES./pvks

To

1 The Principal/Correspondent, Sri Raghavendra Junior College, Ramagiri, Nalgonda.
2 The Regional Joint Director of Higher Education, Warangal.
3 The Commissioner and Director of Intermediate Education, A.P. Hyderabad.

4 2CCs to the Government Pleader for Higher Education, High Court Buildings, Hyderabad (OUT).

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